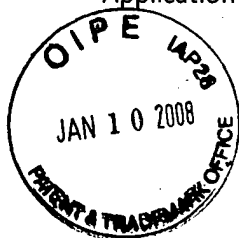


01-11-08

Attorney Docket No: 0201-001(a)  
Attorney Customer No: 45270  
Application Number: 10/802,093

*IFW*  
PATENT



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Re: Application of: Michael D. Maguire**

**Serial No: 10/802,093**

**Filing Date: 03-16-2004**

**Group Art Unit: 3734**

**Examiner: Michael G. Mendoza**

**For: METHOD AND APPARATUS FOR MANUAL DELIVERY OF VOLUME AND  
PRESSURE CONTROL ARTIFICIAL VENTILATION**

**PETITION TO WITHDRAW NOTICE OF ABANDONMENT**

Attn: Issue Branch  
The Honorable Commissioner  
Patents and Trademarks  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

You are hereby respectfully requested to withdraw the Notice of Abandonment dated January 04, 2008, as the Issue Fee and Publication Fees were paid in a timely manner on November 19, 2007 (the due date being November 27, 2007).

Attorney Docket No: 0201-001(a)  
Attorney Customer No: 45270  
Application Number: 10/802,093

PATENT

In support of the payments having been made in a timely manner, enclosed are copies of the following documents:

- 1) signed transmittal documentation
- 2) check number 5142 in the amount of \$1,020.00
- 3) return postcard stamped by the USPTO dated November 19, 2007
- 4) Express Mail slip (EB 021750265 US)

However, it has come to our attention, through communications with the U.S. Patent and Trademark Office, and specifically an Attorney for the Petitions Office within the U.S. Patent and Trademark Office, that errors were made by both the Applicant and USPTO personnel.

The Applicant did transpose two numbers on the documentation submitted with payment of the Issue and Publication Fees. **The correct Serial Number for the Patent Application to be issued is: 10/802,093** (as indicated in the header on each page of this Petition). The serial number that was inadvertently used when payment was sent, is: 10/802,903. This was a typographical error.

The errors made by USPTO personnel were:

- a) not cross-referencing all other identifiers supplied by Applicant:
  1. Title of Invention:  
"Method and Apparatus for Manual Delivery of Volume and Pressure-Control Artificial Ventilation"

Attorney Docket No: 0201-001(a)  
Attorney Customer No: 45270  
Application Number: 10/802,093

PATENT

2. Docket No: 0201-001(a)
  3. Group Art Unit: 3734
  4. Examiner: Michael G. Mendoza
  5. Inventor's Name: Michael D. Maguire
  6. Confirmation No: 4036; and
- b) when allocating the fees paid (\$1,020.00 for Issue and Publication), the application serial number used (10/802,903) had already issued as Patent No: 6,902,002 on 06-07-2005 (per the Attorney with the Petitions Office). This should have immediately caused someone to recognize that a misallocation of funds was being made or that some other clerical error had been made.

Per Section 502 of the MPEP, the U.S. Patent and Trademark Office can take all actions necessary to remedy this simple, transpositional error. For your convenience, part of Section 502 is set out as follows:

All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office. Any correspondence not containing the proper identification set forth in 37 CFR 1.5(a) will be returned to the sender by OIPE. Each paper should be inspected to assure that the papers being returned contain either an "Office Date" stamp or a TC date stamp. ***A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors,*** and listing the parent application number. The failure to give any application number is not a minor error. The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, petitions for extension of time, and other petitions.

Attorney Docket No: 0201-001(a)  
Attorney Customer No: 45270  
Application Number: 10/802,093


PATENT

### Conclusion

Based upon the aforementioned comments and attachments, it is urged that the Notice of Abandonment be withdrawn, that the **Issue and Publication fees already paid be reallocated to the correct Patent Application Serial No: 10/802,093**, and that the **Patent issue immediately on Patent Application Serial No: 10/802,093**.

Should there be any questions, comments or suggestions, or should issues remain, the Examiner is respectfully requested to contact the undersigned by telephone for a prompt and satisfactory resolution.

Respectfully Submitted,  
Lev Intellectual Property Consulting

  
\_\_\_\_\_  
Robert G. Lev  
Registration No: 30,280

Date: January 10, 2008

4766 Michigan Blvd.  
Youngstown, OH 44505  
330-759-1423 Telephone  
330-759-4865 Fax  
patdoc@cisnet.com

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
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LABEL NO. EB 021750398 US  
NAME Kim Woods  
SIGNATURE Kim Woods

Applicant(s) **Michael D. Maguire**

Application	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/802,903	03-16-2004	Michael G. Mendoza	45270	3734	4036

Invention:

**METHOD AND APPARATUS FOR MANUAL DELIVERY OF VOLUME AND PRESSURE-CONTROL ARTIFICIAL VENTILATION**

**Mail Stop Issue Fee**  
**COMMISSIONER FOR PATENTS**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

Transmitted herewith are the following for the above-identified application.

- ☒ Issue Fee Transmittal Form PTOL-85
- ☒ Utility Fee: \$ 720.00 ☐ Design Fee: 0 ☐ Plant Fee:
- ☒ Publication Fee: \$ 300.00
- ☒ A check in the amount of \$1,020.00 is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 50-3262 as described below.
- ☐ Charge the amount of
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**



Dated: 11-19-2007

*Signature*

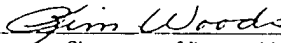
**Robert G. Lev**  
Registration #: 30,280  
Lev Intellectual Property Consulting  
4766 Michigan Blvd.  
Youngstown, Ohio 44505  
330-759-1423 Telephone  
330-759-4865 Fax  
patdoc@hotmail.com

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**Certificate of Mailing by First Class Mail**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as <del>first class</del> mail in an envelope addressed to "Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on
<u>11-19-2007</u> (Date)
 Signature of Person Mailing Correspondence
<b>Kim Woods: Express Mail EB021750265US</b> Typed or Printed Name of Person Mailing Correspondence

ROBERT G. LEV  
476 MICHIGAN BLVD  
YOUNGSTOWN OH 44505

6-12 122  
410  
820190900

5142

DATE

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MEMO

[REDACTED]

EB 021750265 US

The Patent/Trademark Office acknowledges and has stamped hereon, the date of receipt of the forms checked:

☒ SMALL ENTITY

NOV 19 2007

Doc. No. 0201-001 (A)

Serial No. 10/802,903

Applicant: Michael  
Maguire

A \_\_\_\_\_

US Patent Application, consisting of:

( ) Statement of Declaration

( ) Power of Attorney

( ) Specification \_\_\_\_\_ Pages

( ) Claims \_\_\_\_\_ Pages

( ) Drawings \_\_\_\_\_ Pages

( ) Abstract \_\_\_\_\_ Pages

( ) Assignment & Fee  
( ) Amendment / Response  
( ) Appeal Brief  
( ) Declaration with POA  
( ) Extensions of Time \_\_\_\_\_ mths  
( ) IDS: Info. Disclosure Statement  
☒ Issue & Publication Fees \$ 1020.00  
( ) Maintenance Fees: \_\_\_\_\_ year  
( ) Petition: \_\_\_\_\_  
( ) Response to Election Requirement  
( ) Terminal Disclaimer and Fee  
( ) Utility App. - Notice of Appeal & Fee

Total Fee:

Initials:

\$ 1020.00

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EB 021750265 US

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FROM: (PLEASE PRINT) PHONE (330) 759-1423  
Robert G. Lev  
4766 Michigan Blvd.  
Youngstown, OH 44505  
0201-001 (A) 10/802,903

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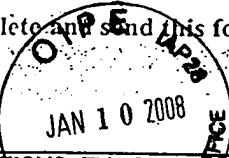
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22313 + 1450

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**INSTRUCTIONS:** This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 5 should be completed where appropriate. **NO** further correspondence including the Patent, advance orders and notification of **maintenance fees** will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Use Block 1 for any change of address)

Robert G. Lev  
Lev Intellectual Property Consulting  
4766 Michigan Blvd.  
Youngstown, OH 44505

330-759-1423 Telephone  
330-759-4865 Fax  
patdoc@cisnet.com

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**Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Kim Woods	(Depositor's name)
<i>Kim Woods</i>	(Signature)
November 19, 2007	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,903	03-16-2004	Michael D. Maguire	0201-001(a)	4036

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	yes	720.00	300.00	1020.00	11-27-2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
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1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Robert G. Lev

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s):

- ☒ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-3262 (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date November 19, 2007

Typed or printed name Robert G. Lev

Registration No. 30,280

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450 Alexandria, Virginia 22313-1450.

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